

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

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ANDREW L. COLBORN,  
Plaintiff,  
vs.

NETFLIX, INC.,  
CHROME MEDIA, LLC, f/k/a  
SYNTHESIS FILMS, LLC,  
LAURA RICCIARDI, and  
MOIRA DEMOS,

Case No. 19-CV-484

Defendants.

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**MOTION *IN LIMINE* TO BAR ADMISSION OF  
OPINIONS AND STATEMENTS OF PLAINTIFF'S COUNSEL AT TRIAL**

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PLEASE TAKE NOTICE that Plaintiff, Andrew Colborn, by and through his undersigned counsel, hereby moves the Court for an order excluding from admission at the trial in this matter (1) personal opinions of any of his counsel expressed prior to commencing representation of Plaintiff; and (2) any alleged prior statements or testimony by his counsel relating to any matters connected to Steven Avery prior to commencement of this action and that are merely recitations of hearsay or that are based solely on hearsay. In support of this motion, Plaintiff alleges and shows the Court as follows:

1. Based on statements in its recently-filed motion to compel, Defendant Netflix, Inc. openly seeks to embarrass one of Plaintiff's attorneys, Attorney Michael Griesbach, with prior statements of personal opinion that Netflix contends conflict with Plaintiff's position in this case. *See* Dkt #206 at p. 14 (bullet point list).

2. Attorney Griesbach's personal opinions about any issues to Steven Avery and legal proceedings involving him that were expressed prior to being retained to represent Plaintiff and that involve statements made outside Attorney Griesbach's professional capacity as an Assistant District Attorney for Manitowoc County, Wisconsin, are inadmissible lay opinion that cannot be admitted at the trial of these proceedings. *See* Fed.R.Evidence 701(a)-(c).
3. Further, Attorney Griesbach's personal opinions, to the extent not based on his own perception of events, are irrelevant as they do not tend to make any facts in issue more or less probable than it would be without the evidence, *cf.* Fed.R.Evidence 401 (a)-(b), unless Defendants are conceding that Attorney Griesbach is competent to serve as an expert witness regarding the material facts at issue in this case.
4. Any of Attorney Griesbach's prior statements or testimony regarding any matters connected to Steven Avery that are merely recitations of hearsay likewise cannot be admitted at trial, Fed.R.Evidence 802.
5. Netflix's actions in attempting to threaten one of Plaintiff's attorneys that he may be called to testify at trial and attempting to subpoena materials that are publicly available but were gathered by one of Plaintiff's attorneys for personal reasons are harassing to Plaintiff and interfere with his choice of counsel in these proceedings.
6. Most states' Rules of Professional Conduct for attorneys contain some iteration of the principle that in representing a client, "a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person." *See, e.g.,* Minnesota Rules of Professional Conduct, Rule 4.4(a).

7. By serving Attorney Griesbach with a subpoena in his personal capacity, Netflix has tacitly admitted that Attorney Griesbach is a third person to this case as to his personal capacity.
8. The matters proposed to be excluded are inadmissible at trial. An order so holding at this juncture would allow the parties to focus their preparation and resources in pre-trial proceedings to those that are likely to bear on material issues instead of expending time and effort on wasteful exercises that are harassing to Plaintiff and his counsel.

Dated this 6<sup>th</sup> day of April, 2022.

SCHOTT, BUBLITZ & ENGEL, S.C.

By: /s/ April Rockstead Barker  
April Rockstead Barker  
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